

**REMARKS****Summary of the Status of Claims**

In the Office Action of April 17, 2007 claims 12-38 were allowed and claim 19 was only subject to an objection. In this amendment claim 19 is amended, to overcome that objection.

In the prior office action claims 1-11 and 39-40 were subject to a rejection under 35 USC §103(a). By the amendment herein this rejection is not longer applicable. Claims 1 and 9-11 have been canceled and dependent claims 2-8, 39-40 and new claim 54 now depend from allowed independent claim 12.

Therefore, the claims now presented are claims 2-11, 12-40 and 54.

**Restriction Requirement and Withdrawal of Claims 41 to 53**

In Applicant's Response to the Restriction Requirement dated January 16, 2007 applicants traversed the requirement because the Examiner did not provide any of the grounds set forth under MPEP §§814-817 that are required to support a restriction. Applicants hereby incorporate herein by reference their Response dated January 16, 2007. The two groups of claims are not independent and distinct. The Examiner has not addressed applicant's grounds for traversal stated in the January 16, 2007 response and has presented no additional grounds to support the restriction requirement. Moreover, the non-elected claims 41-53 should be found allowable on the same grounds as claims 12-38.

Applicants respectfully request that the restriction requirement be withdrawn and claims 41-53 be allowed.

Objection To Claim 19

Claim 19 is amended herein to correct the multiple dependency to read “claims 12 or 18,” replacing the original language “claims 12 and 18”. Applicants respectfully submit this overcomes the objection and renders claim 19 as allowed.

Rejection of claims 1-11, 39 and 40 Under 35USC §103(a)

Claims 1-11, 39 and 40 have been rejected under 35 USC §103(a). Specifically, claims 1-7, 9-11 and 39 were rejected as being unpatentable over Leventhal ‘900 in view of Cutler ‘608; claim 8 has been rejected based on the foregoing references further in view of Salkinder; and claim 40 has been rejected based on the foregoing two references further in view of Komatsu.

For reasons stated below, applicants traverse this rejection. However, to expedite prosecution, particularly in view of the allowance of claims 12-38 and a restriction requirement, applicants either amend or cancel the rejected claims without prejudice.

The Leventhal ‘900 patent describes a massaging pad containing two materials, one of “a relatively low density flexible foam” and the other on the upper layer of “a foam having a greater density and stiffness.” Col. 2 lines 58-63. The reasons for choosing these different materials is not mentioned in the patent specification. Without knowing the relative thickness of these layers and other factors, a person of ordinary skill in the art could not find any basis for the Examiner’s assumption that one layer in Leventhal’s device provides a “vibration transmission region” and the other layer

provides a “vibration dampening region”. The relative stiffness/flexibility of the two layers is not sufficient to draw a conclusion regarding their function in Leventhal.

The Cutler '608 patent provides no teaching regarding the composition or properties or location of a cushioned portion of a massaging device. Therefore, the combination of these two references does not suggest the claims now presented. Since the combination of Leventhal and Cutler does not describe or suggest the claimed invention, the additional references of Salkinder and Komatsu cannot cure these deficiencies.

### **CONCLUSION**

Based on the foregoing amendments and remarks, applicants respectfully request reconsideration and withdrawal of all rejections and allowance of all presented claims.

### **AUTHORIZATION**

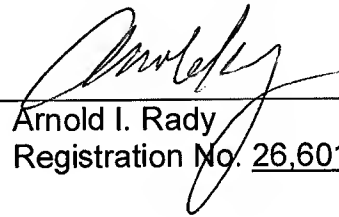
The Commissioner is hereby authorized to charge any additional fees which may be required for consideration of this Amendment to Deposit Account No. **13-4500**, Order No.4577-4000US.

In the event that an extension of time is required, or which may be required in addition to that requested in a petition for an extension of time, the Commissioner is requested to grant a petition for that extension of time which is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to Deposit Account No. **13-4500**, Order No.4577-4000US.

Respectfully submitted,  
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By: \_\_\_\_\_

  
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